APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,862	11/08/2001	L. Mark Ernest	FIS9-2000-0304	2036

7590   11/23/2004

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EXAMINER
VAN DOREN, BETH

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)	
Office Action Summary	10/005,862	ERNEST ET AL.	S
	Examiner	Art Unit	
	Beth Van Doren	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 September 2004</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
    closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213. ·

Disposition of Claims

4)☒ Claim(s) <u>1-16</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-16</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage·
            application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   The following is a final office action in response to communications received

09/07/2004. 1, 2, 14, and 16 have been amended. Claims 1-16 are pending in this application.

Response to Amendment

2.   Applicant's remarks and amendment to claim 1 is not sufficient to overcome the 35 USC

§ 101 rejections set forth in the previous office action. The remarks have been addressed and the

rejections reasserted below.

3.   Applicant's amendments and remarks to claims 2, 10, 14, and 16 are sufficient to

overcome the 35 USC § 112, second paragraph, rejections set forth in the previous office action.

However, Applicant's remarks are not sufficient to overcome the 35 USC § 112, second

paragraph, rejection of claim 1. Therefore, the remarks have been addressed and the rejection

reasserted below.

Response to Arguments

4.   Applicant's arguments with regards to the 35 USC § 101 rejections have been fully

considered, but they are not persuasive. In the remarks, Applicant argues that (1) claim 1 is a

computerized process that does produces a concrete, tangible, and useful result and is therefore

statutory and (2) the claim elements cannot be considered "mere ideas in the abstract".

     In response to argument (1), Examiner respectfully disagrees. As discussed with regards

to the 35 USC § 112 rejection of claim 1, explained below, the claimed invention does not

accomplish the intended use set forth in the preamble of the claim (i.e. managing an IT system).

Since the process is indefinite, multiple users would implement the invention differently, thus

producing different ways of using the claimed steps to manage an IT system. Thus, the invention

is not concrete

In response to argument (2), Examiner respectfully disagrees because there is no

technology or technical elements actively used in the implementation of the claimed invention.

While the claims may contain recitations of elements that are technical components, these

components are not active in the performance of claimed steps and are merely nominal

recitations. For example, as to the systems recited in claim 10, the term system is not recited in

the claim in a way that limits the term from merely being a group of abstract processes

performed without the use of technology. Also, as to the monitoring that is performed in claim

12, this monitoring is not specifically performed using a technology and even it was,

"monitoring" as claimed could merely be accomplishing by displaying data on a monitor or such,

which is not an active use of technology. Therefore, since no technology is recited in the claims

or actively involved in performing the claim limitations, the 35 USC § 101 rejection that the

invention is not within the technological arts (and therefore abstract) is proper. This rejection

has been reasserted below.

5.   Applicant's arguments with regards to the 35 USC § 112 rejections have been fully

considered, but they are not persuasive. In the remarks, Applicant argues that (3) claim 1 should

more appropriately be rejected under 35 USC § 112, first paragraph.

In response to argument (3), Examiner respectfully disagrees. While Examiner's

wording of the rejection may not have been explicitly clear to the Applicant, the 35 USC § 112,

second paragraph, rejection of claim 1 is proper because the Applicant does not particularly point

out and distinctly claim the subject matter that he regards as his invention. First, there is no

interconnectivity between the five steps recited in claim 1. For example, step 3 states

"constructing a value function for valuing each service". However, this value and valuation does

not relate to the "value" determined in step 5, since this value of step 5 is determined from

correlating services and components. Therefore, this example illustrates how there is no clear

connection between the recited steps. Second, the preamble of the claim states that the intended

use of the invention is to manage an IT system, but the steps in the body of the claim do not

accomplish this intended use. It is unclear as to how collecting and reporting usage data,

constructing a valuation function, correlating services with components, and determining from

the correlation a value of the components and the IT system specifically accomplishes the

managing of an IT system. Therefore, claim 1 does not particularly point out and distinctly

claim the subject matter that the applicant regards as his invention and therefore the 35 USC §

112, second paragraph, rejection is proper.

Furthermore, Applicant suggests on page 6 of his remarks that claim 1 would have more

appropriately been rejected under 35 USC § 112, first paragraph. Examiner is unclear if the

Applicant is suggesting by his comments that there is a potential written description and

enablement problem in the specification of the application. Since the Applicant has raised

questions as to whether the specification is enabled and contains sufficient written description,

Examiner puts the Applicant on notice that these rejections may be applicable later in the

prosecution of this Application.

6.   Applicant's arguments with regards to the 35 USC § 102 rejections based on Adriaans et

al. (U.S. 6,311,175) have been fully considered, but they are not persuasive. In the remarks,

Applicant argues that (4) Adriaans et al. does not teach or suggest determining the value (as

distinguished from physical performance) of components in an IT system for services offered,

(5) all measurements made Adriaans et al. relate to hardware component physical performance

during various test scenarios, whereas the present invention is used to determine a value of a

component by collecting actual usage data from the components and deriving for each provided

service a value for the component, (6) Adriaans et al. does not teach or suggest component

values based on usage statistics (claim 2), evaluating the worth of each component (claim 3), or

constructing a relationship table (claim 4).

        In response to argument (4), Examiner respectfully disagrees. The claims recite a

component in an IT system, the component used in providing services of the IT system.

Therefore, the components materially exist and perform in the physical world, and therefore

values associated with the components could be values of physical performance. Examiner

points out that the claims broadly recite the term "value" without any specific recitation of what

the value represents beyond some association with service. Adriaans et al. specifically discusses

monitoring activity of components in an IT system as the system performs to meet SLA

agreements. Examiner points out that there is no specific recitation in the claims as to how or

why the IT system is being operated or who for. Therefore Applicant's remark that the IT

system of Adriaans et al. is used to measure performance of an IT system in test scenarios has no

relevance to the pending claims or the prior art. Adriaans et al. further discloses using the data

about the monitored components to characterize the worth of the monitored component in

meeting or missing the targeted performance variable or the SLA. Trend analysis, performance optimization, and monitor optimization are also be performed. See at least column 5, lines 30-50, column 6, lines 55-65, column 8, lines 44-60, column 9, lines 45-67, column 10, lines 15-25 and 35-50, and column 11, lines 40-65.

In response to argument (5), it is noted that the limitations upon which applicant relies (i.e., collecting actual usage data from the components and deriving for each provided service a value for the component) are not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 1, for example, provides no specific recitation of deriving a value of a component for each provided service, as stated by the Applicant. While claim 1 recites that a value function is constructed to value each service, there is no specific link between this value function and the usage data collected and reported, nor is there a recitation of deriving a value for each component for each service. Further, while steps four and five recite that each service is correlated with each component used to provide said service, and <u>a value of each component</u> and <u>a value of said IT system</u> is determined from the correlation, there is no recitation of deriving for each service a value for the component. See at least the abstract, figure 4, column 5, lines 30-50, column 6, lines 55-65, column 8, lines 44-60, column 9, lines 45-67, column 10, lines 15-25 and 35-50, and column 11, lines 40-65, wherein a value for a component is determined by valuing the stored data based on the service level agreements (SLAs). A value for the overall system is determined based on the association of the components to the SLAs. Examiner points out that none of

independent claims 10 and 12 or dependent claims 2-9, 11, and 13-16 recite this limitation. In

fact, claims 10 and 12 do not even determine a value for a component.

In response to argument (6), Examiner respectfully disagrees. As per claim 2, Adriaans

et al. discloses that the value is determined based on usage information gathered at the

components. See the abstract, column 5, lines 14-40, column 6, lines 15-35, and column 8, lines

15-40. As per claim 3, Adriaans et al. discloses the worth of each component based on the

component's uses to the system in at least figures 4 and 6, column 1, lines 15-40, column 2, lines

50-67, column 3, lines 1-15, column 4, lines 25-40, and column 10, lines 40-65. Finally, as per

claim 4, Adriaans et al. discusses a relationship table is constructed which identifies components

used in a service. A configuration management process is linked to a change process to keep a

database table that reflects the current IT System. See at least column 3, lines 30-46 and 54-60,

column 4, lines 30-40, column 5, lines 14-40, column 6, lines 15-35, column 8, lines 15-40.

Claim Rejections - 35 USC § 101

7.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

8.   Claims 1-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed

to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

(1) whether the invention is within the technological arts; and

(2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the

technological arts. Mere ideas in the abstract that do not apply, involve, use, or advance the

technological arts fail to promote the "progress of science and the useful arts" (i.e. the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, the claims only recite an abstract idea. In claim 1, the recited steps of collecting usage data for providing a service at a component, reporting the usage data, constructing a valuation function, correlating the service with a component, and determining values based on the correlation does not explicitly apply, involve, use, or advance the technological arts since all of the recited steps can be performed without the use of any technology (i.e. there is no specific recitation of what is performing the collecting, reporting, constructing, etc. of claim 1 and therefore it could be implemented without the use of technology). Therefore, since the steps of claim 1 only constitute an abstract idea of how to valuate the components, and since the steps of claim 1 do not explicitly apply, involve, use, or advance a technological art, it is respectfully submitted that the claims are directed towards non-statutory subject matter. Furthermore, claims 2-16 contain the same § 101 issues as claim 1.

Additionally, for a claimed invention to be statutory, the claimed invention must also produce a useful, concrete, and tangible result. In the present case, the claimed invention is not concrete because different users would implement the process and produce different outcomes, making the invention not repeatable. The claimed invention constructs a valuation function and uses usage data to determine values. Different users would use different valuation functions and determine different values based on the varying value function. Therefore, it is respectfully submitted that the invention, as claimed, is not concrete.

Since the claimed invention does not produce a useful, concrete, and tangible result and

since the claimed invention is not within the technological arts, as explained above, claims 1-16

are deemed to be directed towards non-statutory subject matter.

Claim Rejections - 35 USC § 112

9.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing

to particularly point out and distinctly claim the subject matter which applicant regards as the

invention.

10.   As per claim 1, claim 1 is directed towards managing an integrated IT system having a

plurality of components. The claim recites the steps of "reporting the usage data of each

component for each service" "constructing a valuation function for valuing each service", and

"determining from said correlated services and components a value of each component and a

value of said IT system". It is unclear based on these limitations what the applicant regards as

his invention because these limitations fail to identify what is occurring in the process. First, it is

unclear as to who or what the usage data is being reported. Second, it is unclear as to how and/or

when a valuation function is being constructed and what valuation function is specifically being

used. Third, it is unclear how values for components and a value for an IT system is determined

based on correlations. Therefore, based on these limitations, it is unclear as to what is distinctly

occurring by the Applicant's invention. Clarification and correction is required.

Claim Rejections - 35 USC § 102

11.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12.   Claims 1-16 are rejected under 35 U.S.C. 102(a) and (e) as being anticipated by Adriaans

et al. (U.S. 6,311,175).

13.   As per claim 1, Adriaans et al. teaches a computerized process for managing an

integrated information technology (IT) system having a plurality of components and providing a

plurality of services, the process comprising the steps of:

collecting, at each of the components, usage data indicating an amount of use each

component receives in providing each of the services (See at least the abstract, column 5, lines

14-40, column 6, lines 15-35, column 8, lines 15-40, column 9, lines 15-37, and column 11, lines

40-65, wherein monitors of the components collect usage data when providing a service);

reporting the usage data of each component for each service (See at least column 3, lines

30-42, column 5, lines 14-40, and column 8, lines 15-40, wherein the usage data is reported by

the monitors to the database);

constructing a valuation function for valuing each service (See at least the abstract, figure

4, column 5, lines 30-50, column 6, lines 15-35, column 8, lines 44-60, column 9, lines 45-67,

and column 11, lines 40-65, wherein a valuation function is constructed for valuing each service

based on SLA agreements and thresholds);

correlating each service with each component used to provide said service (See at least

figure 4, column 4, lines 25-40, column 5, lines 30-50, column 6, lines 55-65, column 8, lines

44-60, column 9, lines 45-67, and column 11, lines 29-40, which discusses correlations between

components and services); and

determining from said correlated services and components a value of each component

and a value of said IT system (See at least the abstract, figure 4, column 5, lines 30-50, column 6,

lines 55-65, column 8, lines 44-60, column 9, lines 45-67, column 10, lines 15-25 and 35-50, and

column 11, lines 40-65, wherein a value for a component is determined by valuing the stored

data based on the SLAs and a value for the overall system is determined based on each

component, the SLAs).

14.   As per claim 2, Adriaans et al. discloses a process wherein said component value is

determined from usage statistics accumulated at each component (See the abstract, column 5,

lines 14-40, column 6, lines 15-35, column 8, lines 15-40, column 9, lines 15-37, and column 11,

lines 40-65. The value is determined based on usage information gathered at the components).

15.   As per claim 3, Adriaans et al. teaches a process further comprising the step of evaluating

a worth of each component based on multiple uses of said component in multiple services

performed by said IT system (See at least figures 4 and 6, column 1, lines 15-40, column 2, lines

50-67, column 3, lines 1-15, column 4, lines 25-40, and column 10, lines 40-65, which discuss

the worth of a component based on its uses in the system).

16.   As per claim 4, Adriaans et al. teaches a process further comprising the step of

constructing a relationship table identifying the components used in providing each service,

wherein a configuration management process is fed by a change management process in order to

maintain the relationship table as changes to said IT system are made (See at least column 3,

lines 30-46 and 54-60, column 4, lines 30-40, column 5, lines 14-40, column 6, lines 15-35,

column 8, lines 15-40, column 9, lines 15-37, and column 10, lines 14-28, wherein a relationship

table is constructed which identifies components used in a service. A configuration management

process is linked to a change process to keep a database table that reflects the current IT System).

17.   As per claim 5, Adriaans et al. discloses a process wherein valuing a given service

comprises determining a value for each transaction conducted in providing that service (See at

least the abstract, figure 4, column 5, lines 30-50, column 6, lines 15-35, column 8, lines 44-60,

column 9, lines 45-67, and column 11, lines 40-65, wherein a valuing occurs by determining a

value for each operation that occurs in providing the service of the system).

18.   As per claim 6, Adriaans et al. teaches a process further comprising the step of providing

for each component an agent for accumulating transaction data regarding services provided using

that component (See at least the abstract, column 5, lines 14-40, column 6, lines 15-35, column

8, lines 15-40, column 9, lines 15-37, and column 11, lines 40-65, which discloses monitors at

each component that serve as an agent for collecting operational data and providing that data to

the database for further evaluation).

19.   As per claim 7, Adriaans et al. discloses a process wherein said value is determined in

said determining step in accordance with the transaction (See at least the abstract, figure 4,

column 5, lines 30-50, column 6, lines 15-35, column 8, lines 44-60, column 9, lines 45-67, and

column 11, lines 40-65, wherein a valuing occurs by determining a value for each operation that

occurs in providing the service of the system).

20.   As per claim 8, Adriaans et al. discloses a process wherein said transaction data includes

the type of transaction and a value associated therewith (See at least the abstract, column 5, lines

14-40, column 6, lines 15-35, column 8, lines 15-40, column 9, lines 15-37 and 55-67, and

column 11, lines 40-65, wherein the transaction data includes the type of operation and a value

associated with this operation).

21.   As per claim 9, Adriaans et al. discloses a process further comprising the step of

reporting the transaction data (See at least column 3, lines 30-40, column 5, lines 14-40, and

column 8, lines 15-40, wherein the data is reported by the monitors to the database).

22.   As per claim 10, Adriaans et al. teaches a system for managing an IT infrastructure

having a plurality of components for providing a plurality of services, said system comprising:

        an agent associated with each of the components, said agent identifying each transaction

of a service performed by said IT infrastructure (See at least the abstract, column 5, lines 14-40,

column 6, lines 15-35, column 8, lines 15-40, column 9, lines 15-37, and column 11, lines 40-65,

wherein monitors act as agents for each of the components and collect operational data for

providing a service); and

        an information collection system for collecting from said agents transaction information

relating to each service performed, said system determining from said transaction information

which of said components are involved in said transaction (See at least the abstract, figure 4,

column 1, lines 15-40, column 2, lines 50-67, column 3, lines 1-15, column 4, lines 25-40,

column 5, lines 14-40, column 6, lines 15-35, column 8, lines 15-40, column 9, lines 15-37, and

column 11, lines 40-65, wherein monitors collect operational data for providing a service by the IT system. A system meeting a SLA is valued and determined using the collected data).

23.   As per claim 11, Adriaans et al. discloses a system wherein said information collection system provides a report which identifies for each service the value of said service and the value of the components used in providing said service (See at least figures 3, 4, and 6, column 1, lines 15-40, column 3, lines 1-10 and 30-50, column 4, lines 30-50, column 5, lines 30-50, column 6, lines 55-65, column 9, lines 45-67, column 10, lines 3-25, and column 11, lines 30-60, wherein a report is made to the system identifying a value for the evaluation of the health of the system and a value for each component. This information is used to update the system).

24.   As per claim 12, Adriaans et al. teaches a system for managing an IT infrastructure comprising: an information technology process model which defines a plurality of groups of processes defining information flow for an integrated management model defining the IT infrastructure for a plurality of IT services (See at least figure 3, column 1, lines 15-40, column 3, lines 1-10 and 30-50, column 4, lines 30-50, column 10, lines 3-25, and column 11, lines 30-60, wherein a process model is defined with a plurality of groups of processes);

a plurality of agents for monitoring each component of said IT infrastructure, said agents collecting transaction information identifying each transaction by service type (See at least the abstract, column 5, lines 14-40, column 6, lines 15-35, column 8, lines 15-40, column 9, lines 15-37, and column 11, lines 40-65, wherein monitors act as agents for each of the components and collect operational data for providing a service);

said agents reporting over said IT infrastructure transaction information to said information process model whereby said information is used by said model (See at least column

3, lines 30-42, column 5, lines 14-40, column 8, lines 15-40, column 10, lines 3-25, and column 11, lines 30-60, wherein the usage data is reported by the monitors over the infrastructure and the information is used to update the model).

25.   As per claim 13, Adriaans et al. teaches a system for managing an IT infrastructure wherein said information is processed to provide a table that identifies for each component the service in which the component participates (See at least column 3, lines 30-46 and 54-60, column 4, lines 30-40, column 5, lines 14-40, column 6, lines 15-35, column 8, lines 15-40, column 9, lines 15-37, and column 10, lines 14-28, wherein a relationship table is constructed).

26.   As per claim 14, Adriaans et al. discloses a system for managing an IT infrastructure wherein said information from said agents are processed to derive a second table identifying a total value of each service based on the information (See at least column 3, lines 30-46 and 54-60, column 4, lines 30-40, column 5, lines 14-40, column 6, lines 15-35, column 8, lines 15-40, column 9, lines 15-37, and column 10, lines 14-28, wherein a second, updated table is derived that identifies a total value for each service based on the information).

27.   As per claim 15, Adriaans teaches a system for managing an IT infrastructure wherein said total value is determined for at least some of said services based on the number of transactions performed by said services (See at least figures 4 and 6, column 10, lines 40-67, column 11, lines 40-65, and column 12, lines 1-25, wherein the total value is determined by the number of operations performed).

28.   As per claim 16, Adriaans et al. discloses a system for managing an IT infrastructure wherein said first table includes a valuation of each component based on said component's participation in each of said services (See at least column 3, lines 30-46 and 54-60, column 4,

lines 30-40, column 5, lines 14-40, column 6, lines 15-35, column 8, lines 15-40, column 9, lines

37-67, column 10, lines 14-28, and column 11, lines 30-64, wherein a table includes a valuation

of each component based on the component's role in the service).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882.

The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bvd

November 18, 2004

SUSANNA M. DIAZ
PRIMARY EXAMINER
AU 3623